

Comments by Home Educators on the

Recommendations from the 2009 Review of Elective Home Education by Lancashire County Council.

The recommendations are in black with comments in other colours.

1. The county council and home educators should work more closely to develop a relationship of trust and mutual support within which the child can achieve and flourish.

Bearing in mind that EHE families have chosen not to use the county council's education system EHE families may also choose not to have close working relationships with the county council with regard to their children's education.

The county council should indeed work closely with families who send children to school. Some EHE parents have withdrawn children from school because they felt that teachers and parents were not able to communicate and work together sufficiently well to provide a suitable education for their children.

It might be better to start with an acknowledgement that the LA will understand their duty within the law, understand parents' duty and state that they will work within that framework. Ideally this would not be necessary but current Lancashire policy in Elective Home Education is ultra vires.

Given that the changes to the Law on EHE have not occurred following passionate lobbying of MPs and Lords by the EHE community, it'd be good to see the LA acknowledge that they will be working to the DCSF guidelines issued in November 2007 and using the current laws to fulfil their safeguarding duty.

2. LEIS teachers should be renamed to reflect the fact that, when working with home educators, their role is not a teaching one, but a support one.

We welcome the change of title that has been introduced since the report, and urge that the change should be reflected across all the council's documentation. As well as being renamed they should also become informed and widely read on the topic of home education. It is not helpful to have EHE families evaluated by people whose main expertise is school-style-education.

3. The approach of the LEIS teachers should reflect the support and assistance they can provide to home educators, against a background of the County Council's statutory duty to safeguard all children.

We have attached the perspectives of a group of Home Educators on the Duty to Safeguard. This might be helpful.

The tricky issue here is to find a way that EHE families can support the LA in performing its duty in a way that does not intrude on the parental duty to provide a suitable education. In some families coercing a child to be assessed/ interviewed by an official from the Local Authority would be counter to their educational and parental philosophy. Offering such an opportunity would of course be ok; compelling it as the current review indicates is unacceptable. There is much research on the positive impact of self determination on learning, monitoring of education in a way that would reduce autonomy is considered detrimental to learning by some families (this philosophy is supported by research e.g. http://www.psych.rochester.edu/SDT/publications_search.php?action=do_main_search&dID=11).

We'd be happy to provide more information if required.

Seeing Education and Safeguarding as separate issues might help to find a solution to this problem.

This perspective will be different in cases where there is genuine reason to think that a child is not being provided with an education.

4. In the light of the increasing numbers of children being educated other than at school, extra support should be considered for the EHE team to help them cope with this increase in workload.

A genuinely "light touch" approach should not need extra staff. If for instance EHE only got involved where there is reason to believe that parents were not fulfilling their duty to educate their children. In the same way that Social Services only get involved if there is reason to believe children are at risk or in need of support.

5. Support should be given to home educators in Lancashire to bid for Voluntary, Community and Faith Sector funding with the aim of setting up an advocacy provision for home educating families and their children for discussions/meetings with the local authority where the family/child feels that they need that support.

We really would hope that this would not be necessary. It would not be necessary if the EHE service were only intervening where there is genuine reason for them to do so i.e. in cases where it is suspected parents are not providing an education suitable to the age ability and aptitude of the child.

It's a little concerning that we'd need to engage "Voluntary, Community and Faith Sector funding with the aim of setting up an advocacy provision". Hoping that system can be found that does not require us to engage in such a complicated system of engagement with the LA.

6. Regular meetings should take place between LEIS and home educators in order to facilitate a positive relationship and exchange of information within a group forum setting.

Some home educators would be happy to support the LA in learning more about EHE in this manner.

We are not aware of any attempts by the LA to do this in the last year.

It would be good to see the LA offer all known EHE families opportunity to consult on any plans to make changes/improvements to the system.

They should also consider how to advertise so that EHE families who are unknown to them could contribute to any consultation.

Given the current ultra vires policy, it would be good to get a guarantee that engaging in dialogue with any consultations would not result in the EHE department automatically becoming involved in monitoring the children's education. One view is that this intrusion is only needed if there is reason to think that an education might not be being provided. Some LAs take this view.

7. More information should be available to home educators either through improvements to the council's current EHE website or through the use of a contact number.

Currently the educational advice on the website links to Home Education Organisations, Exam Boards and one Maths Website which parents can pay a monthly fee to use.

There is a great deal of information on Home Education easily available on the internet; there are many books on the subject. Home Ed parents tend to climb this steep and interesting learning curve in the first year of EHE. The lack of info on the council website implies a lack of knowledge on this very wide area.

8. When a parent chooses to home educate a child currently attending school, the school and officers of the local authority should do all that they can to ensure that the parent discusses this decision with the school. The aim should be to seek to resolve any problems that the child is having at school and, where appropriate, of maintaining a relationship. If the matter cannot be resolved at this stage, there should be the possibility for a referral for conciliation.

9. The EHE1A form should be reconsidered, in consultation with home educators in Lancashire.

This would be good.

10. More support should be given by the county council to home educating families to help their children access exams services, whilst recognising that those families may have to pay to use these services.

Interesting, it would be easy for the LA to provide this service. Why would they charge EHE parents for it when school parents receive this service for free?

If EHE families choose not to have a school education why does this prevent them accessing the state examination system? Even if parity with school children for funded exams is not possible, access to exams would still be a major improvement.

11. The county council should consider giving more support to home educated children in accessing sports and science facilities whilst recognising that families may have to pay to use these services.

Why would choosing not to use the school education mean that EHE children would not be able to access the same sports and facilities as school children? Can see that as the science facilities are attached to schools this might be harder but with some creative thinking it should be possible too.

12. The county council and Home Educators should work together to ensure that the voice of the child is heard in decisions around their education

Indeed, all adults in a child's life should work to ensure that the voice of the child is heard in all decisions around all aspects of their life. This should relate to children whose parents choose schools for them too. A service that enables all children to raise concerns about their educational provision would be an equitable way for the LA to carry out its duty on this matter.

13. The legislation that governs the local authority's ability to ensure the well-being and safety of children being home educated should be strengthened.

This is a matter for Parliament. Reassurance that LA will work within the current law is crucial.

14. The county council's responsibility for the safeguarding of every child in Lancashire must be acknowledged and Home Educators and the council should work together to establish the best ways to achieve this for home educated children.

It would be good to have clear documentation of this duty. At the bottom of this document we have added the perspectives of a group of Home Educators on the law in regard to the Duty to Safeguard. Home Educators and the council should work together to establish the most appropriate ways to support the council in their duty. Balancing this important safeguarding issue with the freedom of EHE families to educate in creative, effective but un-school-like ways is crucial. The danger to EHE is that the safeguarding and the educational issues are conflated, that our educational provision would be judged by people who are experts in

school education. This of course would be prevented if creative ways were considered to meet the safeguarding question.

Home Educators tend to be part of strong local communities; this in itself is an important tool in safeguarding children.

A realistic look at the issue that does not simply involve instigation of unnecessary and ineffective intrusion in the family lives of Home Educators would be very helpful. If this were done in genuine consultation with EHE families it's likely that a better outcome would be achieved.

15. This report should be passed onto the DCFS for consideration in their review of Elective Home Education.

This has happened and indeed a Bill has been through parliament, the EHE aspects of the bill were voted out in the Wash before the election, following an effective education and lobbying campaign by the EHE community.

We expect that those working in the EHE department have followed the course of the Bill through parliament and the interesting debates on the topic, as have EHE families. Following and engaging in this process has been a learning experience for the EHE community. It is hoped that those working in EHE departments in LAs will have had a similar learning experience.

MPs and Lords are now much better informed about Home Education than they were a year ago. It's not easy to understand something you know little about particularly wrt an education model that is very different to the one that the majority of people use.

We really hope that through effective consultation and conversation that Home Educators can support the LA in carrying out what Duties they have and the LA will develop an understanding of Home Education that enables them to genuinely support, without hindrance

Local Authority Duty to Safeguard Children

(England and Wales)

22

Children Act 2004

Section 11 of the Children Act 2004 places a statutory duty on key people and bodies to make arrangements to safeguard and promote the welfare of children:

11 Arrangements to safeguard and promote welfare

(1) This section applies to each of the following—

- (a) a children's services authority in England;
- (b) a district council which is not such an authority;
- (c) a Strategic Health Authority;
- (d) a Special Health Authority, so far as exercising functions in relation to England, designated by order made by the Secretary of State for the purposes of this section;
- (e) a Primary Care Trust;

- (f) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;
- (g) an NHS foundation trust;
- (h) the police authority and chief officer of police for a police area in England;
- (i) the British Transport Police Authority, so far as exercising functions in relation to England;
- (j) a local probation board for an area in England;
- (k) a youth offending team for an area in England;
- (l) the governor of a prison or secure training centre in England (or, in the case of a contracted out prison or secure training centre, its director);
- (m) any person to the extent that he is providing services under section 114 of the Learning and Skills Act 2000 (c. 21).

(2) Each person and body to whom this section applies must make arrangements for ensuring that—

- (a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and
- (b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.

(3) In the case of a children's services authority in England, the reference in subsection (2) to functions of the authority does not include functions to which section 175 of the Education Act 2002 (c. 32) applies.

(4) Each person and body to whom this section applies must in discharging their duty under this section have regard to any guidance given to them for the purpose by the Secretary of State.

Education Act 2002

Part 11 of the Education Act 2002, (Miscellaneous and General) refers to the general duties of local education authorities and governing bodies. Section 175 is about the duties of LEAs and governing bodies in relation to the welfare of children.

175 Duties of LEAs and governing bodies in relation to welfare of children

(1) A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.

(2) The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.

(3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution.

(4) An authority or body mentioned in any of subsections (1) to (3) shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(5) In this section—

- “child” means a person under the age of eighteen;
- “governing body”, in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

Does the LA have to safeguard my child?

The local authority has a duty to ensure that ***their functions*** are discharged having regard to the need to safeguard and promote the welfare of children; and that anyone ***providing services*** for them ***in the discharge of those functions*** provides them having regard to that need.

The duty applies to local authority functions and the provision of services. **It does not confer new functions upon local authorities, such as a function of ensuring that all children, everywhere in the authority area are safe.**

Does the LA have to safeguard my child's education?

Under section 175 of the Education Act 2002 creates a duty for local education authorities to make arrangements for ensuring that ***the functions conferred on them in their capacity as a local education authority*** are exercised with a view to safeguarding and promoting the welfare of children. ***It does not create new functions, such as the oversight of all educational provision to ensure that all children are receiving a suitable education, or that they are safe.***

If your child is educated in a state school, the local authority has a duty to make arrangements to safeguard and promote the welfare of your child.

If your child is in private provisions the relevant institution is subject to the same duties.

If your child is electively home educated this does not come under the duty of the local authority except in so far as they have functions conferred upon them with respect to elective home education.

The local authority has no duty to ensure the safety or welfare of your child at home. This is the duty of parents.

What is the duty of the LA in respect to EHE?

The duties of the local authority in respect of elective home education are covered in the Education Act 1996:

Section 7

- this section gives the duty to secure the education of a child to ***the parents***. This can be done either by regular attendance at school, or otherwise.

Section 437

- this section places a duty on local authorities to act if appears to them that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise. In order to consider whether it does appear to them that this is the case, local authorities may make enquiries of parents whom they believe to be educating a child otherwise than by attendance at schools. The standard of information that applies is that it should be enough to convince a reasonable person, on the balance of probabilities only, sufficiently to dispel any such appearance.

CME

- Local authorities also have a duty to keep a register of those children who are not registered in a school whom they consider to be missing education. For this reason, it is possible that they will take up the option to make a general enquiry of home educating families so that they can consider if the information available to them indicates an appearance that a child is not receiving a suitable education.

Suitable Education

- has been defined in case law as that which fits a child to live in the community of which they are a part

Efficient Education

- has been defined in case law as that which achieves what it sets out to achieve.

Guidance

- both the Children Act 2004 and the Education Act 2002 state that authorities must have regard to guidance issued by the Secretary of State with reference to the duties and powers of the acts. From time to time the Secretary of State may issue guidance to local authorities. However, in order to meet legal standards, ***the guidance must not conflict with the primary legislation that empowers the Secretary of State to issue guidance.***